



House of Commons  
Regulatory Reform Committee

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# Draft Legislative Reform (Health and Safety Executive) Order 2008

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**Second Report of Session 2007–08**

*Report, together with formal minutes and  
written evidence*

*Ordered by The House of Commons  
to be printed 4 March 2008*

## The Regulatory Reform Committee

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on draft Legislative Reform Orders under the Legislative and Regulatory Reform Act 2006. Its full remit is set out in S.O. No. 141, which were approved on 4 July 2007.

### Current membership

Andrew Miller (*Labour, Ellesmere Port & Neston*) (Chairman)  
Gordon Banks (*Labour, Ochil and South Perthshire*)  
Lorely Burt (*Liberal Democrat, Solihull*)  
Mr Quentin Davies (*Labour, Grantham and Stamford*)  
Mr James Gray (*Conservative, North Wiltshire*)  
Stephen Hammond (*Conservative, Wimbledon*)  
John Hemming (*Liberal Democrat, Birmingham, Yardley*)  
Mrs Sharon Hodgson (*Labour, Gateshead East & Washington West*)  
Mr Stewart Jackson (*Conservative, Peterborough*)  
Judy Mallaber (*Labour, Amber Valley*)  
Dr Doug Naysmith (*Labour/Co-operative, Bristol North West*)  
Mr Jamie Reed (*Labour, Copeland*)  
Mr Anthony Steen (*Conservative, Totnes*)  
Phil Wilson (*Labour, Sedgefield*)

### Criteria against which the Committee considers each draft legislative reform order

Paragraph (3) of Standing Order No.141 requires us to consider any draft legislative reform order against the following criteria:

... whether the draft legislative reform order —

- (a) appears to make an inappropriate use of delegated legislation;
- (b) serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- (c) serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- (d) secures a policy objective which could not be satisfactorily secured by non-legislative means;
- (e) has an effect which is proportionate to the policy objective;
- (f) strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- (g) does not remove any necessary protection;
- (h) does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (i) is not of constitutional significance;
- (j) makes the law more accessible or more easily understood (in the case of provisions restating enactments);
- (k) has been the subject of, and takes appropriate account of, adequate consultation;
- (l) gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant;
- (m) appears to be incompatible with any obligation resulting from membership of the European Union.

## **Publications**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/regrefcom](http://www.parliament.uk/regrefcom). A list of Reports of the Committee in the present Session of Parliament is at the back of this volume.

## **Committee staff**

The current staff of the Committee are John Whatley (Clerk), Neil Caulfield, Inquiry Manager, and Liz Booth (Secretary/Committee Assistant).

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, Delegated Legislation Office, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2837; the Committee's email address is [regrefcom@parliament.uk](mailto:regrefcom@parliament.uk).

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## Summary

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The draft Legislative Reform (Health and Safety Executive) Order 2008 was laid before the House by the Department for Work and Pensions (DWP) on 18 February 2008. Its purpose is essentially to amend the Health and Safety at Work etc. Act 1974 (the HSW Act) so as to consolidate the Health and Safety Commission and the Health and Safety Executive into one statutory body, the aim of the merger being to improve effectiveness.

The Order is the second draft Legislative Reform Order (LRO) to come before the Committee under the Legislative and Regulatory Reform Act (LRA) 2006, which allows LROs to be made either (under section 1) to remove or reduce a legislative burden or (under section 2) to promote regulatory principles of transparency, accountability, proportionality, consistency and targeting. Within certain parameters, section 2 expressly covers transfer of regulatory functions between bodies in order to promote principles of better regulation. The DWP has proposed that the draft Order be made under section 2. The draft Order would be the first LRO to be made under that section.

The Department of Work and Pensions has recommended that the draft Order be proceeded with under the affirmative resolution procedure. **We agree.**



# 1 Overview of the proposal

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1. This report reviews the proposal in the draft Order, addresses the relevant Standing Order tests and tests in the Legislative and Regulatory Reform Act 2006, and considers whether, as the DWP proposes, the affirmative parliamentary approval procedure should apply.

## Summary of the proposal

2. The draft Legislative Reform (Health and Safety Executive) Order 2008 would abolish the Health and Safety Commission (HSC) and the current Health and Safety Executive (HSE), and transfer their functions to a new, unitary body, which would retain the name “Health and Safety Executive” (the “HSE” name being widely recognised). Diagrams of the existing and proposed governance models are at pages 3 and 6 of the DWP explanatory document.<sup>1</sup>

3. The current HSE consists of a Chief Executive (appointed by the HSC in consultation with the Secretary of State) and two other members (appointed by the HSC in consultation with the Chief Executive). The new HSE Board would take over the strategic function of the HSC. However, instead of the HSC’s minimum six and maximum nine members (in practice it has nine), the HSE Board would, in order to incorporate greater variety of experience, have at least seven and a maximum of 11 members. As with the HSC, three members would be appointed after consultation with employer bodies, and three after consultation with employee bodies, but, in contrast with the HSC, a further member would be appointed specifically after consultation with local authorities.<sup>2</sup> The remaining four members would be appointed after consultation with other interested parties such as Welsh and Scottish Ministers and appropriate organisations such as professional bodies. All board members would be “non-executive” (that is, appointed from outside the HSE organisation). The new Chief Executive would not be a member of the Board, but would be appointed by and accountable to the Board (appointment being with the approval of the Secretary of State).

4. To reinforce independence and prevent conflicts of interest, the existing framework prevents the HSC from directing individual enforcement decisions on health and safety.<sup>3</sup> That restriction would be carried over to the new HSE<sup>4</sup> and to the Secretary of State.<sup>5</sup>

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1 The original version is at [http://www.opsi.gov.uk/si/si2008/draft/em/ukdsiem\\_9780110808734\\_en.pdf](http://www.opsi.gov.uk/si/si2008/draft/em/ukdsiem_9780110808734_en.pdf)

2 Current section 10(3)(c) of the HSW Act requires consultation with local authorities only alongside other concerned organisations and in relation to the three non-employer, non-employee posts generally. There is no requirement for appointment of a specific local authority representative after specific local authority consultation.

3 Section 11(4) of the current HSW Act

4 Schedule 2 paragraph 9(3)(b) of the HSW Act as proposed to be amended (see page 10 of the draft Order)

5 See section 12(3) HSW Act, as proposed to be amended (see page 3 of the draft Order)

## Summary of reasons for the proposal

### Governance

5. The proposal originated from the HSC and the current HSE themselves, and has DWP agreement. It aims to merge the two current statutory health and safety bodies into a unified governing body with greater outside (that is, non-executive) input. Further aims are to improve communication, accountability and strategic oversight, and to provide a better challenge function to management.

6. The HSC and the current HSE were established under the Health and Safety at Work etc Act 1974 following the 1972 report of the Robens Commission,<sup>6</sup> which recommended that there be a single governing body. However, the then Government<sup>7</sup> opted for a two-tier structure in which the HSC would exercise strategic control of the HSE and of local authorities in their performance of health and safety functions.

7. The HSC takes policy decisions on health and safety, advises Ministers, and secures compliance through the HSE. Its duties include proposing regulations, approving codes of practice, giving broad direction to investigations and inquiries, arranging for the provision of information services, and conducting research. The HSE is the operating arm for the HSC. It prepares proposals for the Commission, makes recommendations, and carries out the Commission's decisions. It has approximately 3,000 staff.

8. The HSC and the HSE believe that the current governance structure is outdated. The consultation and explanatory documents indicate that they have discussed updating the governance structure for some time and have attempted improvements without the need for changing the HSW Act—for instance through closer working relationships and more detailed monitoring of financial and operational performance, but have concluded that those improvements do not go far enough. They believe that the existence of two separate bodies remains confusing, that it reduces the impact of important communications, and that there is insufficient opportunity for non-executive input into the work of the HSE.

9. Detailed discussion of the current structure, the different roles of the HSC and the HSE, and of the reasons for the proposal—specifically, for proposing a unitary, non-executive model—is found at paragraphs 41 to 69 and Annex 2 of the initial consultation.<sup>8</sup> The non-executive model is stated as having the advantage of “providing a clear separation between governing and executive functions.”<sup>9</sup> The proposal was made after consideration of guidance for and best practice in similar bodies.<sup>10</sup>

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6 Cmnd 5034, 1972

7 The HSW Act received Royal Assent on 31 July 1974—after the General Election of February that year, but it is understood that the Bill's proposals received cross-party support.

8 The HSC's 'A Stronger Voice for Health and Safety' – see <http://consultations.hse.gov.uk/inovem/gf2.tif/3938/118373.1/PDF/-/CD210.pdf>

9 Initial consultation, paragraph 56

10 See footnote 1 to paragraph 5 of the initial consultation

### **Work with Local Authorities**

10. The Health and Safety (Enforcing Authority) Regulations 1998 allocate enforcement of health and safety legislation between local authorities and the HSE. Local authorities are the principal enforcing authorities in retailing, wholesale distribution, warehousing, hotel and catering premises, offices. More information about their role is available at <http://hse.gov.uk/lau/>.

11. Section 18 of the HSW Act as proposed to be amended by the draft LRO<sup>11</sup> would place a duty on the new Executive and on local authorities to work together to establish best practice and consistency in enforcement and, significantly in the light of recent events,<sup>12</sup> to enter arrangements for co-operating and exchanging information on carrying out their functions.

### **Costs Issues**

12. The initial consultation indicated that the likely incidental costs of the change would be minor.<sup>13</sup> (An additional advantage of retaining the HSE name is that the expense associated with a name change would be avoided.) Overall, the DWP considers that the change would not carry any adverse financial consequences for business or for the public<sup>14</sup> and hence has not prepared an impact assessment. Such transitional costs as do arise are anticipated to be below the £5 million impact assessment threshold.<sup>15</sup> It is conceded that "...benefits, such as those that will arise from more effective decision-making, are more difficult to value in monetary terms."<sup>16</sup>

## **2 Assessment of the proposal against the tests in the Legislative and Regulatory Reform Act 2006 and in Standing Order No. 141(3)**

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13. The relevant tests in the LRA for an order submitted under section 2 are that:

- i. There has been proper consultation on the proposal (section 13)
- ii. The conditions of section 2 are met; that is (in paraphrase), that the order serves the purpose of securing the exercise of regulatory functions in compliance with the

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11 Page 5 of the draft LRO

12 The inquest into the death of Rhianna Hardie and suggestions made thereafter about how to improve communication between the HSE and local authorities

13 Initial consultation, paragraph 36

14 August 2007 Consultation document, paragraph 2.16. See also paragraph 3 of the DWP letter at Appendix B (total cost for current and previous financial year is no more than £500,000).

15 See Explanatory Document, paragraph 21

16 Initial consultation, paragraph 40

principles of transparency, accountability, proportionality, consistency, and targeting

iii. Various conditions in section 3(2) are met. These are:

- the policy objective intended to be secured by the provision could not be satisfactorily secured by non-legislative means
- the effect of the provision is proportionate to the policy objective
- the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it
- the provision does not remove any necessary protection
- the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise
- the provision is not of constitutional significance

14. Each of the tests at ii and iii is matched by an equivalent test in House of Commons Standing Order No. 141(3). In addition, the Standing Orders require the Committee to consider whether a draft LRO gives rise to an issue under relevant criteria for consideration of statutory instruments as laid down in Standing Order No. 151(1).<sup>17</sup>

### Adequate consultation

15. The initial consultation took place between 5 December 2006 and 5 March 2007, with 162 responses.<sup>18</sup> A summary follows:-

- a) 80% of respondents agreed that the HSC and the HSE should merge. Those who opposed merger were concerned about the possibility of conflict between policy and delivery elements, and whether key partnerships (especially with local authorities) would be affected. The DWP has commented that recent years have seen much energy devoted to improving the relationship between the current HSE and local authorities and that its commitment to the objective of making best use of collective resources is undiminished.<sup>19</sup>
- b) 69% favoured an entirely non-executive model. Those who opposed it favoured a mixed executive and non-executive Board on the basis that it would produce more collective and better-informed decision making.
- c) 83% favoured increasing the size of the governing body to 11 members. Those against either favoured retention of the current model or thought that the increase would make decision making more difficult.

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17 See paragraph 33 of this Report

18 See Annex 1 to the DWP letter of 12 February 2008 for the identities of the consultees. The letter is at Appendix B to this Report.

19 See Report on Ministerial Consultation, paragraph 13, cited in full at footnote 21

- d) 96% agreed that individual enforcement and prosecution decisions should continue to be made by officials.
- e) 82% agreed that a merged body should be known as the HSE. Those against were worried about confusion with the existing, subordinate organisation.

16. The positive response to the HSC consultation led to a second, Ministerial consultation which ran from August 2007 until 31 October 2007.<sup>20</sup> The Ministerial consultation involved 134 organisations, with responses received from 26. (Annexes A and B to the Report on the consultation set out the names of consultees and respondents). The explanatory document indicates that the low response rate probably followed from the relatively high response rate to the earlier consultation.

17. The second consultation addressed different questions from those in the first. Notwithstanding that, some respondents took the opportunity to comment on the key principles of the merger. The main areas of concern (as highlighted by the DWP) were the increase in the Board membership from nine to 11, consultation on appointments to the new Board, and whether the Board should consist entirely of non-executive members. Some respondents felt that the increase in governing body membership numbers was not large enough and would not facilitate introduction of groups who might currently be underrepresented. In addition, there was concern that the new HSE would be both partner to and statutory master of local authority enforcement bodies. There was also concern that the merger might cause budget reductions.

18. Responding to those concerns, in the Report<sup>21</sup> following the Ministerial Consultation, the DWP stated that executive members will be present at meetings of the new HSE Board. It also noted that the merger is not financially driven.

19. Following the Ministerial consultation, three amendments were made to the draft Order. Firstly, there is now a legislative requirement to publish the document by which the HSE Board authorises the exercise of its powers by individual members, committees and staff.<sup>22</sup> It is felt that this will reinforce the HSE Board's impartiality on enforcement issues.<sup>23</sup> Secondly, the DWP is not proceeding with the removal of an HSW Act provision that permits the withholding of all or part of reports produced in relation to investigations and inquiries. The reason is that reports are in any case already subject to the Freedom of Information Act, and removal of the provision would have created an inconsistency. Thirdly, a requirement to observe Better Regulation principles of the LRRRA will not be included in the Order. Instead, the principles will be incorporated into the working practices of the organisation, which will in any event be required to observe them once the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 comes into force.<sup>24</sup>

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20 <http://www.dwp.gov.uk/publications/dwp/2007/hsmerger/hs-at-work.pdf>

21 <http://www.dwp.gov.uk/publications/dwp/2007/hsmerger/hse-consult-report.pdf>

22 Paragraph 9(5) of proposed replacement Schedule 2 to the HSW Act (see page 10 of the draft Order)

23 Full reasoning is given in the explanatory document, paragraphs 40-47

24 Planned for 6 April 2008. A further change—exclusion of HSE power to authorise secondary legislation—is mentioned in paragraph 71 of the revised explanatory document. However, that was not connected with the consultation process.

20. The DWP has stated that it will develop working practices in consultation with relevant parties to ensure that there is understanding of, for example, how the HSE Board will challenge the senior management team and how information exchange with local authorities will be different (both of these matters having been raised in the consultation).

**21. We therefore believe that the proposal has been the subject of, and taken appropriate account of, adequate consultation.**

22. DWP states that legislation is necessary to effect the changes. **We agree.**

## Compliance and appropriateness

**23. We consider that the draft Order is appropriate for delegated legislation.**

24. Section 2(4)(c) of the Legislative and Regulatory Reform Act 2006 specifically permits transfer of functions between bodies. As required by section 2, the proposal neither confers any new regulatory function nor abolishes an existing one. Paragraph 3.7 of the August 2007 consultation document states that: “a few changes will be made to the functions and powers of the new Executive”. These are explained in Annex 2 to Appendix B. The substantive changes all have the effect of improving accountability, control or working practices, and there is no proposal for any overall expansion of functions or powers beyond those of the current HSE and HSC. There do not, therefore, appear to us to be any concerns about the proposed changes.

**25. In light of the reasoning for the draft Order set out above (which are given more fully in the consultations and explanatory document and which have been expanded on in the responses to the Committee’s questions contained in the appendices to this Report), we are satisfied that the proposal would indeed serve the section 2 purpose of securing that regulatory functions are exercised to comply with principles of transparency, accountability, proportionality, consistency, and targeting.**

## Proportionality

26. The proposed provisions are limited to giving effect to the merger. There would be no change in substantive health and safety law or in enforcement. All rights and liabilities of the HSC and the current HSE would be transferred in their entirety to the new HSE, and no statutory functions would be created or removed. (Section 2(6) of the LRR in any case prevents LROs being used to effect such change).

**27. We agree that the draft Order is proportionate to the policy objectives.**

## Balance of interests

28. The majority of respondents to the first consultation believed that increased consultation with key stakeholders when populating the new HSE Board would be a positive step in the public interest. Respondents also felt that the proposal would allow the new HSE to operate more effectively. Staff members in the service of the existing HSE would have their terms and conditions transferred to the new Executive. **We agree that the draft Order maintains a fair balance between competing interests.**

## Preservation of necessary protection and exercise of rights and freedoms

29. **There will be no substantive change in health and safety law and we therefore agree that the proposed Order does not remove any necessary protection and does not interfere with the exercise of rights and freedoms.**

## Constitutional significance and Territorial Extent

30. The provisions of the draft Order are of no constitutional significance.

31. Health and safety is a topic reserved to the UK Parliament under the devolution settlement, and there are no seats on the current HSC for members from the devolved authorities. However, the draft LRO proposes that the HSW Act be amended to allow the Secretary of State, if he so wishes, to appoint members of the new HSE after consultation with the Welsh and Scottish Ministers.<sup>25</sup> Since the Welsh and Scottish Ministers are not obliged to respond to consultation, their consent is not required to the proposed LRO, but as a matter of practice they have been consulted and are content with the LRO. Section 9 of the LRA prohibits an LRO from making provisions that are within the legislative competence of the Scottish Parliament unless they are consequential, supplementary, incidental or transitional. The proposed changes to the Scotland Act 1998 that are contained in the LRO are of such nature. Except for the few minor provisions referred to in section 84(1), the HSW Act does not extend to Northern Ireland and no proposed change to the arrangements for Northern Ireland is contained in the LRO.

## Compatibility with EU obligations

32. The Minister has stated that the provisions of the proposed Order are compatible with EU obligations and the European Convention on Human Rights.<sup>26</sup> **We agree.**

## Standing Order No. 151(1) issues

33. We are required to determine whether the special attention of the House should be drawn to the draft Order on a number of grounds. Broadly, these amount to: whether the draft Order imposes a charge on public revenue; whether it seeks to avoid challenge in the courts; whether it purports to have retrospective effect; whether there was unjustifiable delay in the laying of it before Parliament; whether there is doubt that it is *intra vires* or makes unusual or unexpected use of powers; whether there is need for elucidation; and whether it suffers from defective drafting. **We do not consider that any such issues arise.**

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25 Paragraph 2(3)(d) of the proposed new Schedule 2 to the HSW Act (see page 8 of the draft Order)

26 Revised Explanatory Document, paras 75 and 76

## 3 Conclusions

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### Resolution procedure

34. The DWP has recommended that the draft Order be proceeded with under the affirmative resolution procedure. The explanation for that choice of procedure is set out in paragraph 24 of the explanatory document. They are: lack of complexity, lack of controversy and lack of impact on the general public. The draft Order has just one significant aim—the merger of HSE and HSC; anything else is virtually consequential. The result is that there are no other policy issues likely to give rise to debate on whether material amendment on policy grounds would be desirable. **In light of the above, we agree that the affirmative procedure is appropriate in this case.**

### Whether the draft Order should be proceeded with

35. **We recommend that the draft Order be approved and proceeded with in accordance with section 17(2) of the Legislative and Regulatory Reform Act 2006.**

# Formal Minutes

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**Tuesday 4 March 2008**

Members present:

Andrew Miller, in the Chair

Gordon Banks  
Lorely Burt

Judy Mallaber  
Dr Doug Naysmith

Draft Report (Draft Legislative Reform (Health and Safety Executive) Order 2008), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 35 read and agreed to.

Summary agreed to.

Several papers were ordered to be appended to the Report

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

[Adjourned till a day and time to be fixed by the Chairman.]

## List of written evidence

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## Appendix A

### Letter from the Inquiry Manager of the Committee to the Department for Work and Pensions: Draft Legislative Reform (Health and Safety Executive) Order 2008: request for information

After review of the above draft Order which was laid before Parliament on 29 January 2008, the following questions arise. I should be grateful if you would provide your reply to these by 12 February.

**Q 1** How are the three current HSC members not appointed after consultation with employers and employees chosen?

**Q 2** The HSC is already a non-executive body. Please explain further why (other than merely because of its nine rather than 11 members) the current structure is considered not to provide adequate scope for non-executive management input.

**Q 3** What are the estimated costs of the merger?

**Q 4** What were the exact dates of the HSC consultation? Who were the consultees, and who responded?

**Q 5** The ABI, the British Safety Industry Federation, the British Safety Council and the Chartered Institute of Environmental Health are notable as not having responded to either consultation. Were any steps taken to try to elicit opinions from them?

**Q 6** Were HSE employees, inspectors and officials consulted?

**Q 7** Is there any intention to review and consult on the effectiveness of the proposals after an appropriate period of implementation?

**Q 8** Paragraph 3.7 of the August 2007 consultation document states that “a few changes will be made to the functions and powers of the new Executive”. Are those changes limited to the matters set out in paragraph 3.8 of that consultation document, together with the proposed new size and composition of the HSE Board? If not, what are the other proposed changes?

**Q 9** Paragraph 11 of the explanatory document says that comments were invited from parliamentary counsel. What comments were received, if any?

**Q 10** In order that the present proposal can be put in context, please explain why the Health and Safety at Work etc Act 1974 adopted a different model from that proposed by the Robens report.

*6 February 2008*

## Appendix B

### Letter from the Department for Work and Pensions to the Inquiry Manager of the Committee: response to request for information

I refer to your letter dated 6 February regarding the above. In answer to your queries:

1. All HSC Commissioners are appointed through open competition in accordance with guidelines set down by the Office of the Commissioner of Public Appointments. A wide range of bodies are informed of vacancies

when they arise. The type of organisation consulted depends on the appointment, for example, the most recent appointment from the local authority sector involved consultation with a range of bodies representing local authorities.

2. The current remit of Commissioners does not give them responsibility for a range of key functions expected of non-executives, including monitoring of financial and operational performance. The merger will create responsibilities in these and other areas and will allow for better challenge and support for the executive team in line with modern governance arrangements in the public sector.

3. Cost issues are covered in the Explanatory Document (ED) paragraphs 19-20 and Annex C paragraph 21. To amplify what is said there, the costs are almost entirely staff time - mainly from the small policy team running the project and HSE's legal advisers. We estimate the total cost for the current and previous financial year to be no more than £250,000, which has come from existing financial provision. As to future costs, the name 'Health and Safety Executive' is being retained and there will be no 'rebranding' costs.

4. The HSC consultation ran from 5 December 2006 to 5 March 2007. The consultees and the names of those who responded are set out in **Annex 1**. Some of the respondents who commented on-line provided very little information on their identity.

5. Apart from the British Safety Industry Federation, the other organisations were sent both consultation documents. CIEH responded to the HSC consultation. HSE has good working relations and regular contact with all these organisations. We are confident that if they had concerns over the merger they would have expressed them.

6. This has been done through the HSE trade unions and the Whitley Council process. All HSE staff have been briefed and given the opportunity to express their views. Like many other organisations they have been concerned to preserve the independence of authorised officials to make individual enforcement decisions. The approach to this is set out in the ED at Part B to the proposal, paragraphs 40-47. The trade unions have not registered any concerns with this approach.

7. The effectiveness of the merger will be regularly reviewed by both the new body and ministers through the normal course of business. The effectiveness of the new body and how the new arrangements are working will be form part of routine liaison meetings with key stakeholders, including the TUC, CBI and Local Government Association. Additionally the non executives of the new body are in a position to feedback and consult on the performance of the new body to the stakeholders they work with.

8. The changes to the functions and powers of the new Executive, as compared to those of the current Commission and Executive, are those proposed in paragraphs 3.8 to 3.31 of the Ministerial Consultation Document, and in paragraphs 38 to 41 and 46 and Part F of the ED. These are summarised in **Annex 2**.

9. As is the usual practice in relation to any Statutory Instrument which amends primary legislation, there has been an iterative process between HSE lawyers and Parliamentary counsel. This is to ensure that the resulting amended primary legislation remains properly drafted. The draft Order was only submitted for Parliamentary scrutiny once this position had been reached. As you aware, some further corrections are taking place following comments from House of Lords Committee lawyer.

10. When the Health and Safety Bill was introduced into Parliament it outlined proposals for a Commission and Executive. Why a policy decision was made not to adopt the Robens model is not known. However, the Bill did receive cross party support and passed through the Parliamentary process during the time of change of governments and two general elections in 1974.

Supplementary question - RoSPA were in fact consulted on both occasions. However, in both documents they are listed under their full name and therefore appear in the alphabetical listing at "T".

If you have any further queries do not hesitate to contact me.

12 February 2008

## Annex 1

### Question 4 from House of Commons Regulatory Reform Committee

The following individuals, groups or organisations were sent HSC consultation document 'A stronger voice for health and safety':

NAME	ORGANISATION
Rear Admiral ADH Matthews	Nuclear Defence Logistics Organisation (Abbeywood)
Sally Pritlove	
Nick Ryall	A Ryall & Son (Contractors) Ltd
Mike Salter	Abbot Group
John Taylor	Acas
Diane Macaulay	Accenture HR Services
Ged Nicholls	Accord
Richard Hill	ACO Technologies
Deborah Arnott	Action on Smoking & Health
Karen Pearson	Active Research
Dr David J Knowles	ADAS UK Ltd
John Edwards	Advantage West Midlands (West Midlands Development Agency)
	African Caribbean Business Network
	Age Concern England
	Age Positive Team
Jake Vowles	Agricultural Engineers Association
Ian Grice	Alfred McAlpine Capital Projects
Jason Dennis	Alliance of Independent Retailers
Samir Brikho	AMEC plc
Mel Ewell	Amey Infrastructure Services
Derek Simpson	Amicus
Peter Simpson	Anglian Water Group
Tony Trahar	Anglo American plc
Simon Garland	Anglo Holt Construction Ltd
John Crum	Apache North Sea Limited
Peter Pritchard	ASDA
	Asian Business Association
Khalid Saifullah	Asian Business Federation
George Weston	Associated British Foods plc
Bo Lerenius	Associated British Ports Holdings plc
Dave Bennett	Associated Society of Locomotive Engineers and Firemen
M Kreuzer	Association of British Healthcare Industries
Nick Starling	Association of British Insurers
Stephen Hadrill	Association of British Insurers
Ken Jones	Association of Chief Police Officers
Nelson Ogunshakin	Association of Consulting Engineers
	Association of Electricity Producers
Linda Riseborough	Association of Occupational Health Nurse Practitioners(UK)
Lorraine Gwinnutt	Association of Personal Injury Lawyers
Douglas Bloomfield	Association of Port Health Authorities
Doru Athindoru	Association of Teachers and Lecturers
Mike Murray	Association of the British Pharmaceuticals Industry
Sally Hunt	Association of University Teachers
Eric Teasdale	Astra Zeneca PLC

David Brennan	AstraZeneca plc
Antony McKeon	Audit Commission
Steve Bundred	Audit Commission
Dr Andrew Jupp	AWE
Peter Heathershaw	AWG Construction Services Ltd
Nicolas Moreau	AXA Insurance
Ian Cheshire	B & Q plc
Stephen Nelson	BAA plc
N McKenna	Babcock Engineering Services
Peter Rogers	Babcock International Group plc
Nia Taylor	Backcare
Ian McIntosh	BAE Systems Land Systems
Neil Driver	BAE Systems Land Systems
Murray Easton	BAE Systems Marine Ltd
Richard E Crawford	BAE Systems Marine Ltd
Ian Tyler	Balfour Beatty
Sally Brearley	Balfour Beatty
Chris Reynolds	Barclays Bank
Jacquie Hill	Barclays plc
John Varley	Barclays plc
Malcolm Clarke	Baxall Construction Ltd
Stephen Kelly	BBC
Robert Armour	BE Group Plc
Williams A Coley	BE Group Plc
Anne-Marie Hamilton	Beds County Training Ltd
Ian Hewitt	BG Group plc
Charles Goodyear	BHP Billiton plc
Huw Watkins	Bic Innovation
Mohammed Younis Bhatti	Birmingham Asian Business Association
Gurjeet Kaur Bains	Birmingham Chamber of Commerce & Industry
Rob Adams	Birse Civils
Angela Barker	Birse Civils Limited
Mike Parker	BNFL
Mark Morant	BNFL Magnox
Steve Cooper	BOC Gases
Tony Isaac	BOC Group plc
Richard Baker	Boots plc
Rae Borrás	Borrás Construction
Bob Johnston	Bovis Lend Lease
Roger Alesbury	BP Amoco PLC
John Browne	BP plc
	BP plc
John Colley	BPB
Simon Russell	Brett Construction
Ian Jones	British Agricultural & Garden Machinery Assn
Willie Walsh	British Airways plc
Francis Morrall	British Ceramic Confederation
Sally Low	British Chambers of Commerce
Doug Leech	British Chemical Distributors & Traders Association Ltd
John Stinton	British Cleaning Council
Wayne Smith	British Coatings Federation Limited
	British Deaf Association
Roger Mason	British Furniture Manufacturers Association

David Workman	British Glass
Declan Moore	British Glass
Dr Paul Holmes	British Gypsum Limited
John Dyson	British Hospitality Association
James Clark	British Industrial Truck Association
Ian R Fielder	British Institute of Facilities Management
Colin Beaumont	British International Freight Association
Stephen Hester	British Land plc
Tony Bourne	British Medical Association
Lawrie Haynes	British Nuclear Group
Brian Kazer	British Occupational Health Research
	British Occupational Hygiene Society
Oliver Madge	British Pest Control Association
Peter Davis	British Plastics Federation
Cameron McLatchie	British Polythene Industries plc
Dale Wallis	British Printing Industries Federation
Michael Johnson	British Printing Industry Federation
	British Safety Council
	British Sikh Federation
James Murdoch	British Sky Broadcasting plc
John Dorken	British Tyre Manufacturers Association
Richard Lambert	British Woodworking Federation
Nigel Bryson	Bryson Consulting
Sarah Cudmore	BSRIA
David Wallington	BT Group
Dame Deirdre Hine	BUPA Foundation
Catherine Sermon	Business in the Community
Sandra Brusby	Business Link Cheshire & Warrington
Brian Lightowler	Business Link Cumbria
Clive Memmott	Business Link Lancashire
Terry Leyland	Business Link SY
Mike Hill	Business Skills Northwest
Peter McCormick	C E Electric UK
Gary Thornton	C Spencer
Graham Medcroft	c/o Edmund Nuttall Ltd
Des Crampton	c/o Port Skills and Safety
Kerry Ross	c/o Warburtons Ltd
Graham Roberts	c/o Weaver Vale Housing Trust
Jitinder Kohli	Cabinet Office
Rick Haythornthwaite	Cabinet Office
William Sargent	Cabinet Office
Todd Stitzer	Cadburys Schweppes plc
Martine Hanford	Campbell Soup
Paul Pindar	Capita Group plc
Wayne Jones	Cardiff and SEWales Occupational Health Safety Group
Professor David Walters	Cardiff University
John Carey	Carey Group plc
John McDonough	Carillion
Neil Maycock	Carillion plc
Colin Donnelly	Carlsberg UK Ltd
John Parker	Cast Metals Federation
Stephen Ratcliffe	CC
Chris Morley	CCG

Mark Orsley	CE Electric UK
Sam Laidlaw	Centrica plc
Mike Ashton	Chamberlink
Roger Flanagan	Chartered Institute Of Building
Graham Jukes	Chartered Institute of Environmental Health
Geoff Armstrong	Chartered Institute of Personnel and Development
Vicky Right	Chartered Institute of Personnel and Development
Donna Payne	Chartered Society of Physiotherapy
Colin Chambers	Chemical Industries Association
Stephen Elliot	Chemical Industries Association
Jan Burns	Cheshire County Council
John Lawson	Chevron Upstream Europe
	Child Accident Prevention Trust
Peter Andrews	Church Farm
Kevin Fear	CITB- Construction Skills
David Harker	Citizens Advice Bureau
Mike Bell	Civil Aviation Authority,
Melvin Samuel	Clinical Sciences Building
Mark Atkinson	Clugston Construction
Roy Butcher	Clugston Construction
John Hutchings	Cold Storage Distribution Federation
Dr David Wright CBE	Commercial Occupational Health Providers Association
	Commission for Racial Equality
	Commonwealth Jewish Council
Dave Joyce	Communication Workers Union
Billy Hayes	Communications Workers Union
Rob Sneddon	Community
Paul Gates CBE	Community Union
John Cridland	Confederation of British Industry
Richard Lambert	Confederation of British Industry
Michael Roberts	Confederation of British Industry
Emma Watkins	Confederation of British Industry (Wales)
Prof Russel Griggs	CBI, Growing company forum in Scotland
Andrew Brand	Confederation of Paper Industries
Dr Martin Oldman	Confederation of Paper Industries
Adrian Askew	Connect
David Hardy	Considerate Constructors Scheme
Bob White	Constructing Excellence
Don Ward	Constructing Excellence
Shelley Atkinson-Frost	Construction Confederation
Tim Faithfull	Construction Equipment Association
Graham Watts	Construction Industry Council
Peter Lobban	Construction Industry Training Board
Sir Michael Latham	Construction Industry Training Board
Michael Ankers	Construction Products Association
Rory Mair	Convention of Scottish Local Authorities
James Fowlie	Convention Of Scottish Local Authorities
	CORGI
Philip Peacock	Corus
Philippe Varin	Corus Group plc
Sally Pugh Williams	Corus Wales and the West
Andrew Wyllie BSc, MBA, FICE, Ceng	Costain Group plc

Stephen Terrell	Coulson Building Group
Charles Cochrane OBE	Council of Civil Service Unions
Mike Phelan	Countess of Chester Hospital NHS Foundation Trust
Craig Lewis	Craig Lewis
Stephen Morris	Cruden Construction Ltd
Brian Adams	CSCS Ltd
Rick Green	Cumbrian Industrials
Arthur Smart	CWU East Midlands Branch
Dr Tom Smith	Davas Ltd
Leo Quinn	De La Rue plc
Adrian Dyball	Dean & Dyball Construction
Anne Hemming	Department for Communities and Local Government
Sally Brooks	Department for Education and Skills
Helen Ghosh	Department for Environment, Food & Rural Affairs
Andrew Burchell	Department for Environment, Food & Rural Affairs
David Rowlands	Department for Transport
Simon Webb	Department for Transport
Adam Sharples	Department for Work & Pensions
Alison Scott	Department for Work & Pensions
Dr Bill Gunnyeon	Department for Work & Pensions
Leigh Lewis	Department for Work & Pensions
Philip White	Department for Work & Pensions
David Nicholson (CBE)	Department of Health
Hugh Taylor	Department of Health
Dr Fiona Adshead	Department of Health
Dr Maggie Tomlinson	Department of Health
Dr Naomi Brecker	Department of Health
Peter Coates	Department of Health
Sir Brian Bender	Department of Trade and Industry
Bernard Carter	Department of Trade and Industry
Dr Dennis Walker	Department of Trade and Industry
John Alty	Department of Trade and Industry
Peter Waller	Department of Trade and Industry
Richard Chamberlain	Department of Trade and Industry
Tim Soane	Department of Trade and Industry
Tony Mulcahy	Department of Trade and Industry
Stephen Quinn	Dept for Enterprise, Trade and Investment
Kristin McCarthy	Developing Patient Partnerships
Dr D Gilbert	Devonport Management Ltd
Frank Francis	Devonport Management Ltd
Hugh Grayson	Dew Pitchmastic
Paul Walsh	Diageo plc
	Disability Rights Commission
Commodore Andrew McFarlane	DNSR
R Golze	Doncaster Chamber of Commerce
Dave Ayre	Dorset County Council
Tony Thorne	DS Smith plc
Andrew Sparke	Dudley Metropolitan Borough Council
Michael Carter	E G Carter & Co Ltd
Fiona Stark	E.ON plc
David Evans	East Lothian Council
Andrew Foster	East Midlands Centre of Excellence

Chris Allison	East Midlands Centre of Excellence
Julie Slatter	East Midlands Centre of Excellence
J Moore	East Midlands Development Agency
Angela Grasby	East Riding Council
Ray Webster	easyJet plc
Vincent de Rivaz	EDF Energy
Peter Brooks	Edmund Nuttall Ltd
Robert Treadgold	Edmund Nuttall Ltd
Louise Wilson	Educational Institute of Scotland
Alan Wood	EEF, The Manufacturers Organisation
Gary Booton	EEF, The Manufacturers Organisation
Martin Temple	EEF, The Manufacturers Organisation
Neil Shaw	EKOS Consulting
Paul Reeve	Electrical Contractors' Association
Dr Ian A Wright	Employee Health Management
	Employers Forum for Disability
	Employers Forum on Age
Steve Sumner	Employers Organisation for Local Government
Nick Goodall	Energy Networks Association
Peter Coyle	Energy Networks Association
John Fidler	English Heritage
Mark Ashworth	Enterprise Centre
Barbara Young	Environment Agency
Paul Leinster	Environment Agency
Todd Holden	Enworks
Jenny Watson	Equal Opportunities Commission
Judy Franks	Equity
Tom Moon	ESHA
George Wedgwood	European Metal Recycling Ltd
Richard Gowland	European Process Safety Centre
Marc Sapir	European Trade Union Institute for Research, Education and Health and Safety
Alan Brown	Exxon Mobil
Nicky Wilkins	Faculty of Occupational Medicine of the Royal College of Physicians
Prof Dave Rogers	Faculty of Science
Barry Oliver	Federation of Master Builders
Carol Undy	Federation of Small Businesses
John Walker	Federation of Small Businesses
Rory Mackail	Federation of Small Businesses
Christopher Kelly	Financial Ombudsman Service
John Harvey	Firs & Byfield Mines Complex
Yvonne Malley	First Business Support
Jonathon Baume	First Division Association
Deirdre Hutton	Food Standards Agency
John Russell	Freight Transport Association
Richard Turner	Freight Transport Association
Jackie Bazeley	Furniture, Furnishings & Interiors National Training Organisation
Nigel Northridge	Gallaher plc
Bob Merriman	Galliford Northern
Greg Fitzgerald	Galliford Try Plc
David Spilsbury	GE Sensing
A T Gillies	Gillies Associated Limited

Joanne McCartney	GLA
Mike Brooker	Glas Cymru Cyfyngedig
Ian Lavery	Glasgow City Council
Ian Lee	GlaxoSmithKline plc
Danny Duggan	Gleeson MCL
John McClean	GMB
Paul Kenny	GMB
Trudi Elliott	Government Office of the West Midlands
Alasdair Cox	Grampian Country Food Group
Toby Courtauld	Great Portland Estates plc
Peter Morton	Greater Merseyside Business Link
Michael Wright	Greenstreet Berman
Sir Michael Darrington	Greggs plc
Nick Buckles	Group 4 Securicor plc
John Peace	GUS plc
Mike Bowyer	Halliburton
Dr John Harrison	Hammersmith Hospital
Andrew Smith	Hampshire County Council
David Szymanski	Hanson Building Products
Alan Murray	Hanson plc
James Crosby	HBoS plc
	Health and Safety Executive Northern Ireland
John Stather	Health Protection Agency
Frances Molloy	Health@Work
Steve Bell	Healthy Working Lives
Anna Walker	Healthcare Commission
Stephen Wilkinson	Heathrow Airport Ltd
David Nisbet	Henry W. Pollard & Sons Ltd
Martin Blake	Henry W. Pollard & Sons Ltd
Howard Baggaley	Herbert Baggaley Construction Ltd
Sean Barry	Herbert H Drew & Son Ltd
Clara Arokiasamy	Heritage Lottery Fund
Colin Melvin	Hermes Iequity Ownership Service Ltd
Alistair Dodds	Highland Council
Archie Robertson	Highways Agency
Paul Mitchell	Highways Agency
	Hindu Council UK
Julia MacMillan	HM Treasury
Mrs Jane Standerwick	Holistic Services
Sir David Normington	Home Office
Janine Mills	Hotel and Catering International Management Association
Baroness Anne Gibson of Market Rasen OBE	House of Lords
Steven Douglas	Housing Corporation
Michael Geoghegan	HSBC Holdings plc
Linda Elliss	Humberside Occupational Health and Safety Association
Mike Newton	Hutton Construction Ltd
John McAdam	ICI plc
Bob Gauld	Icopal
Simon Franklin	Imperial College Reactor Centre
Gareth Davies	Imperial Tobacco plc
Trevor Evans	Institute of Chemical Engineers
Geraint Day	Institute of Directors

Michael P Large	Institute of Directors
Dr Philip Woodhead	Institute of Occupational Medicine
J Thurston	Institute of Physics and Engineering in Medicine
Steve Fowler	Institute of Risk Management
Gordon Masterton	Institution of Civil Engineers
Neil Budworth	Institution of Occupational Safety & Health
Rob Strange	Institution of Occupational Safety & Health
Michael Dickson	Institution of Structural Engineers
Paul Hopkin	International Institute of Risk and Safety Management
Hugh Williams	International Marine Contractors Association
Philip Cox	International Power plc
Adrian Ringrose	Interserve plc
Ruth Spellman	Investors in People UK
John Plumb	IPF
John Breheny	J Breheny Contractors
Jim Harrison	J E Harrison Builders (Kirkham) Ltd
Justin King	J Sainsbury plc
John Cope	J W Cope & Co (H&S Consultants)
Richard Neall	Jackson Civil Engineering
John Patterson	JCB World Headquarters
Pierce O'Shea	John Sisk & Son Ltd
Neil Carson	Johnson Matthey plc
Emma Howard Boyd	Jupiter Asset Management
Peter Kilbane	Keighley Worksafe
Kevin Whiteman	Kelda Group plc
John Dodds	Kier Group Plc
Gerry Murphy	Kingfisher plc
Dr Kevin Holland-Elliott	King's College Hospital
Vicky Stratford	Kirklees Business Partnership
Derek Allen	LACORS
Geoffrey Theobald	LACORS
Mark Duval	LACORS
Stephen Walsh	Lancashire Textile Manufacturers Organisation
Francis W Salway	Land Securities plc
Malcolm Gillespie	Learning and Skills Council
Mark Haysom	Learning and Skills Council
Tim Briggs	Leeds Metropolitan University
Tim Breedon	Legal and General plc
	Legal Secretariat to the Law Officers
Jiva Odedra	Leicester Asian Business Assoc
Eric Daniels	Lloyds TSB Group plc
Rod Milicevic	LMC Group
Lord Bruce-Lockhart	Local Government Association
Paul Coen	Local Government Association
Jan Parkinson	Local Government Employers
	Local Government Personnel Association
Peter Bishop	Local Government Task Force
Michael Cassidy	London Chamber of Commerce
Martin Pilgrim	London Councils
Manny Lewis	London Development Agency
Dr Olivia Carlton	London Underground
John Hanley	Mace
David Mason	Magnox Electric

Stanley Fink	MAN Group plc
Ken Dodd	Manchester Airport plc
Professor Cary Cooper	Manchester School of Management
Paul Byard	Manufacturing Advisory Service
Graham Holden	Marshalls
Mike Stott	May Gurney
David Sterry	May Gurney
E.J. McPhillips	McPhillips (Wellington)
Professor Colin Blakemore	Medical Research Council
Bill Norris	Mid Wales Manufacturing Group
Philip James	Middlesex University Business School
Mr Dave Hickman	Miller Homes Limited
Gary Rasch	Mind
Ian Andrews	Ministry of Defence
Jim McLay	Ministry of Defence
Leo Yip Seng Cheong	Ministry of Manpower
	M J Fuller and Associates
Peter Dunt	MOD DE
Graham Grundon	Morgan Est
John Morgan	Morgan Sindall Plc
Paul Smith	Morgan Sindall plc
David Tydeman	Morrison plc
	Muslim Council of Britain
Chris Keates	NASUWT
John Bamford	NATFHE
Rt Hon Rhodri Morgan	National Assembly for Wales
John Findlay	National Association of Local Councils
	National Farmers Union
Adam Mallalieu	National Grid Gas plc
Roger Urwin	National Grid plc
J Davidson	National Pest Technicians Association
Richard Edy	National Tyre Distributors Association
Steve Craig	National Union of Marine, Aviation and Shipping Transport Officers
Steve Kemp	National Union of Mineworkers
Phil Dee	National Union of Rail, Maritime and Transport Workers
Steve Todd	National Union of Rail, Maritime and Transport Workers
Sarah Lyons	National Union of Teachers
Dr Ian Roxburgh	NDA
Glyn Jones	NE Wales Occupational Safety Group
John Abbott	Network Rail
Jan Worthy	NHS Employers
Mike Britch	Norfolk Property Services
Jo Boaden	North East Assembly
Maria Sanderson	North Lincs Health and Safety Group
Pat O'Driscoll	Northern Foods plc
George Partridge	Northern TUC Health and Safety Forum
Stewart Begg	Northumberland Industrial Safety Association
Lisa Jones	Northwest Food Alliance
David Threlfall	Npower
Mick Lunn	Nufarm UK Limited
Ron Powell	NW Association OHSGs

Prof Mark Bellis	NW Public Health Observ
Dr John Ballard	Occupational Health at Work Journal
John Manos	Occupational Health Review
Roger Brunt	OCNS
Richard Shone	Octel Corporation
Melvin Hughes	ODPM
Sue Reid	ODPM
Bill Emery	Office of Rail Regulation
Linda Williams	Office of Rail Regulation
Moira Jones	Office of Rail Regulation
David Adamson	OGC
David McMeehan	OGC
John Oughton	OGC
Peter Fanning	OGC
Simon Robinson	OGC
Stephen Giles	Oil & Gas Independents Association
Roy McNulty	Olympic Delivery Authority
Alan Clark	One NorthEast
Dr Jacqueline Jeynes	OPAL Services
David Goldstone	Partnership for schools
David Robinson	PD Ports plc
David Bell	Pearson plc
Brian Pettifer	Pettifer Construction Ltd
John Brazier	PICON
Stuart Chambers	Pilkington plc
Prof George Griffin	
Paul noon	Prospect
Mark Tucker	Prudential Plc
Pam Cole	Public & Commercial Services Union
Mark Serwokta	Public & Commercial Services Union
Phil Madeline	Public and Commercial Services Union
	Public Private Partnership Programme
Dr Ken Boston	Qualifications and Curriculum Authority
Lynda Thompson	Quarry Products Association
Willie Patterson	Quarry Products Association Scotland
Keith Moorhead	Raynesway Construction
Stephen Fisher	Repetitive Strain Industry Action
Lars Emilson	Rexam plc
Leigh Clifford	Rio Tinto plc
John Rose	Rolls-Royce plc
Andy Haste	Royal & Sun Alliance Insurance Group plc
Cynthia Atwell	Royal College of Nursing
Maura Buchanan	Royal College of Nursing
Carol Bannister	Royal College of Nursing & OH Nursing
David Snashall	Royal College of Physicians
Janet Husband	Royal College of Radiologists
Mr Graham Robertson	Royal Environment Health Institute of Scotland
Tom Bell	Royal Environment Health Institute of Scotland
Jack Pringle	Royal Institute of British Architects
Graham Chase	Royal Institution of Chartered Surveyors
Allan St John Holt	Royal Mail
Adam Crozier	Royal Mail Group
	Royal National Institute for the Deaf

	Royal National Institute of the Blind
Professor Richard Parish	Royal Society for the Promotion of Health
Harry Roels	RWE Npower plc
Bill Towl	S&A Foods Ltd
Richard Hulmes	Safety Assessment Federation
Ian Walsh	Saint-Gobain Pipelines plc
Anthony Langan	Samaritans
Steve Gay	Scotia Gas Networks Plc
Ian Marchant	Scottish and Southern Energy plc
David Smith	Scottish Building
Dr Campbell Gemmell	Scottish Environment Protection Agency
Sir John Elvidge	Scottish Executive
Allan Wilson MSP	Scottish Executive
Cathie Jamieson MSP	Scottish Executive Justice Department
Douglas Greig	Scottish Executive
Linda Shanahan	Scottish Executive
Steve Ryan	Scottish Hazards Campaign Group
Mr George Kirk	Scottish Power
Philip Bowman	Scottish Power
Ian Tasker	Scottish Trade Union Congress
	Seddon Group
Peter Middleton	Semiconductor Safety Association
Prof Janet Bainbridge	Senior Advisor Government & European Affairs
Kevin Beeston	Serco Group plc
Colin Matthews	Severn Trent plc
Claire Western	Shaw Trust
Andrew Eddy	Shell International Limited
Mark Shepherd	Shepherd Building Group Ltd
Tom Dougherty	Shipbuilding & Shiprepairers Association
Bob Rennie	Sir Robert McAlpine Ltd
David Fison	Skanska Construction Group Ltd
Ian Coull	Slough Estates plc
Hilary Todd	Society of Occupational Medicine
John East	Society of Occupational Medicine
David Wait	Society of Radiographers
	Society of Radiological Protection
David Clark	SOLACE [Society of Local Authority Chief Executives]
Dave Sparrock	South Hook LNG Terminal Company Limited
Julliet Williams	South West of England Regional Development Agency
Dr David Snashall	St Thomas' Hospital
	Stonewall
Mel Fitzgerald	Subsea 7
Ann Jones	Swansea and West Wales Occupational Safety Group
Lawrence Waterman	Sypol Ltd
Tanya Heasman	System Concepts
Iain Napier	Taylor Woodrow plc
Terry Leahy	Tesco plc
Ian Beeby	TGWU
John Taylor	TGWU
Judy Cook	The Association of Occupational Health Nurse Practitioners (UK)
	The British Safety Industry Federation
Kevin Cabbage	The Builders Merchants Federation
Claire Sullivan	The Chartered Society of Physiotherapy

Dr Roger Haslam	The Ergonomics Society
	The Gender Trust
Rob Shuttleworth	The LP Gas Association
Andrew Manly	The Manufacturing Technologies Association
Fiona Reynolds	The National Trust
Jack McConnell MSP	The Office of the First Minister
Guy Taylor	The Risk Forum
Roger Bibbins	The Royal Society for the Prevention of Accidents
Tom Mullarkey	The Royal Society for the Prevention of Accidents
Dr Karen McDonnell	The Royal Society for the Prevention of Accidents
	The Runnymede Trust
Brendan Barber	Trade Union Congress
Hugh Robertson	Trade Union Congress
Felicity Williams	Trade Union Congress Wales
Tony Woodley	Transport & General Workers' Union,
Susan Murray	Transport and General Workers' Union
Dave Wetzel	Transport for London
Richard Stephenson	Transport for London
Gerry Doherty	Transport Salaried Staffs' Association
Harry Frew	UCATT
John Carolin	UK Hydrogen Association
Bill Mayes	UK Petroleum Industries Association
Chris Hunt	UK Petroleum Industries Association
Ian Rodgers	UK Steel
Lady Barbara Thomas Judge	UKAEA
Patrick Cescau	Unilever plc
John Hannett	Union of Shop, Distributive and Allied Workers
Dave Prentis	Unison
	Unison
Bob Kyle	United Kingdom Offshore Operators Association
Macolm Webb	United Kingdom Offshore Operators Association
Gordon Waters	United Utilities plc
Philip Green	United Utilities plc
Caroline Whittaker	University of Glamorgan
Prof Raymond Agius	University of Manchester
Professor Alan Gilbert	University of Manchester
Professor Frank Wright	University of Warwick
Professor Mansel Aylward	Unumprovident Centre for Psychosocial and Disability Research
Dr PJC Harding	URENCO (Capenhurst) Ltd
Helmut Engelbrecht	URENCO Ltd
David Alexander	Veolia Water UK plc
	Victim Support
	Vodafone Group plc
	Vodafone Group plc
Paul Lester	VT Group plc
Paul Stokes	Wakemans Ltd
David Seal	Wales Centre for Health
Jeff Jones	Wales Manufacturing Health and Safety Forum
Paul Drechsler	Wates Group Ltd
Andrew Davies	Welsh Assembly Government
Edwina Hart	Welsh Assembly Government
Sir Jon Shortridge	Welsh Assembly Government

Steve Thomas	Welsh Local Government Association
Dr Rashmi Shuklar	West Midlands Public Health Group
Mr J Jacques	West/North Yorkshire Construction Safety Association
Sean Cusack	Wincanton plc
Hilda Palmer	Windrush Millennium Centre
Claude 'Chip' A S Hornsby	Wolseley plc
Dan O'Brien	West Midlands Health and Safety Liaison Group
Gil Edwards	Women in Rural Enterprise
	Women's National Commission
Richard Bartrop	Work at Height UK Ltd
	Work Foundation
Carol Lynch	Worklife Support
Anthony Acari	Workplace Health Connect, Regional Stakeholder Council
Keith Clarke	WS Atkins
Tom Riordan	Yorkshire Forward
Kevin Whiteman	Yorkshire Water

## Chairs of HSC's Industry Advisory Committees

NAME	ORGANISATION
Professor George Griffin	Advisory Committee on Dangerous Pathogens
Stephen Vranich	Nuclear Safety Advisory Committee
Huw Jones	Textiles Industry Advisory Committee
Les Philpott (HSE)	Advisory Committee on Toxic Substances
Liz Gibby (HSE)	Agricultural Industry Advisory Committee
Stephen Williams (HSE)	Construction Industry Advisory Committee
Dan Mitchell (HSE)	Mining Industry Committee
James Barrett (HSE)	Printing Industry Advisory Committee and Paper and Board Advisory Committee
Allan Davies (HSE)	Petroleum Licensing Advisory Group
Terry Aston (HSE)	Rubber Industry Advisory Committee

## HSE's Trade Union Representatives

NAME	ORGANISATION
Bridget Edwards	HSE First Division Secretary
Bob Standing	HSE Prospect Branch Membership Secretary
Paula Brown	HSE PCS National Branch Chair
Chris Hurley	HSE PCS Branch Secretary
Jonathan Holvey	TU Chair of National Whitley Committee

The following groups, organisations or individuals responded to the HSC consultation or gave comments. There were also 26 respondents who wished their response to remain confidential:

NAME	ORGANISATION
Graham Smith	Sheffield City Council Environment and Regulatory Services
Carol Gilbert	
James Clark	British Industrial Truck Association
Neil Budworth	Severn Trent Water
David Natolie	
Garry Connell	
Andy Lewis	Serco

Michael Lavery	
John Derwent	Derwent safety group
Richard Altoft	Richard Altoft and Associates Ltd
Mike Walker	Environmental Services Association
Richard Neall	Jackson Civil Engineering Ltd
Clive Young	Construction Sector Unit, DTI
Richard Ash	Engineering Construction Industry Association
Dr Ray Hughes	Moneamus Ltd
Gary Gordon	
Bernie Taylor	Doctrine and Bond
Paul Lewis	Police Federation of England and Wales
Jennie Walsh	Thompsons Solicitors
Chris O'Leary	Amicus, the union
Mark Burns	Lancashire Occupational Health And Safety Group (LOHSG)
Caroline Skinner	
Paul Mitchell	Highways Agency
Matthew Cowan	Professional Contractors Group Ltd
Colin Chambers	Chemical Industries Association
Douglas Leech	Chemical Business Association
Paul Haxell	
Roger Bibbins	ROSPA
Paul Machin	Picon
David Thomas	Construction Clients' Group
Geraint Day	Institute of Directors
Lesley Calladne	Serco Integrated Transport
Marion Griffin	Construction Health and Safety Group
Hugh Robertson	TUC
Michael Moran	
Mr G Paterson	The institution of engineering and technology
Dr Philip Woodhead	Institute of Occupational Medicine
Shila Patel	Chartered Institute of Environmental Health
David Evans	Society Chief Officers of Environmental Health in Scotland
Dr John W Cherrie	British Occupational Hygiene Society
Mickey Duck	Lancashire Health and Safety Officer Group
Professor Raymond Aguis	
Dave Joyce	Communication Workers Union
Roy Feltham	Rune Associates Limited
Dr John A East MBE	The Society & Faculty of Occupational Medicine
Susan Murray	Transport and General Workers' Union
Charlotte Meller	LACORS
Richard Jones	Institution of Occupational Safety and Health
John Masters	
Aidan Nelson	Rail Safety and Standards Board
Helen Rideout	Prospect
Andy Crawshaw	Tarmac Limited
Jessica Crellin	Forum of Private Business (FPB)
Mick Balfour	GMB

Richard Claugton	Scottish Environment Protection Agency
David Weir	Association of Train Operating Companies
David Adams	Association of British Theatre Technicians (ABTT)
Rosina Robson	Federation of Small Businesses
John Lewis	Yorkshire and The Humber TUC
Peter Carter	Royal College of Nursing
Mr W G Miller	
Jennifer Mitchell	Unison
Linda Riseborough	AOHNP (UK), an association not employer
Martin Bentley	National Grid
Madeleine Abas	Health and Safety Lawyers' Association
Valerie Cameron	Royal Environmental Health Institute of Scotland (REHIS)
Jane Bugler	the International Marine Contractors Association (IMCA)
Dr Mayatt	
Mr D.J Western	British Energy
Clare Williams	The Ergonomics Society
Richard Lodge	Birmingham City Council - Public Protection Committee
Alison Galbraith	The Scotch Whisky Association
Alex McLeod	
Ian Draper, UK National Workstress Network	UK National Workstress Network
DE Brown	Brown Safety Eng
Paul W. Jarvis	RPS
C James	
David Floyd	Liftec Solutions Ltd
Lilian McCartney	
JOHN BUTTER	
roy	
a smith	NR
Gordon Eagle	Professional Health and Safety Services
steve114	
Thomas Chan	The Chinese Takeaway Association
Alison Treacher	The Stroke Association
sally.jeffrey	
Tim Allison	
Chris Elliott	
Ian	St Paul's Community Development Trust
Stuart Page	BBC
g mayor	BAE Barrow in Furness
G Connell	
stevegay	Scotia Gas Networks Plc
JMB	
Gary Smith	
Peter	Cyril Sweett Ltd
Sally Ramage	
amwasa	
Michael Smith	London School of Hygiene and Tropical Medicine

Mark Clayton	Greater Manchester Police Federation
Janet Asherson	CBI
Mark Careless	IKEA
John K Moore	
Jimmy3995	
Frank Harrison	
Dr. Roger K. Bentley	Astley Chemical+safety
Adam	Hurlock & Daughters Training Ltd
Melvin Samuel	Health Protection Agency
NATALIE	Brighton and Hove City Council
Geoffrey Knipe	
Stuart	H.M Government
Derek Maylor	
Jane Crabtree	Association for consultancy and Engineering
Tony Edwards	Balfour Beatty plc
Lawrence Webb	Costain Limited
Professor Frank B. Wright	
D Walmsley CPT	Confederation of Passenger Transport UK
James McPartland	
Jackie Blackwell	
Christopher Gifford	
Peter Fanning	Office of Government Commerce
Julie Gillies	National Pest Technicians Associations
Keith Stanley	National Union of Mineworkers
Sally Ramage	
Amanoola Khayrattee	
Geoff Hooke	British Safety Industry Federation
Chris Bolt	Office of Rail Regulation
Michael Howard	
Louise Ward	EEF - the manufacturers' organisation
James Steatham	Department of Health
Ian McPherson	United Kingdom Petroleum Industry Association Limited
Derrick Farthing	E.ON UK plc
Paul Lester	VT Group services
Chris Murphy	The Chartered Institute of Wastes Management
Michael Philips	NASUWT

## Annex 2

### The changes to the functions and powers of the new Executive, as compared to those of the current Commission and Executive

New Schedule 2 to HSWA, paragraph 7: Although (as now) the new Executive will be free to manage its own procedure as it sees fit, it will be required to consult the Secretary of State before making or revising its rules and procedures for dealing with conflicts of interests and must publish from time to time a summary of its rules and procedures. *These new requirements as to how the Executive exercises its powers are intended to improve the transparency of the organisation by publicising the way the new Executive will carry out its business.*

Section 14 HSWA: The Commission's powers in section 14 of the HSW Act to direct investigations and inquiries are adapted as a consequence of the new unitary structure, to enable the new Executive itself to investigate and make a special report, or authorise another person to investigate and make a special report. The new Executive (with the consent of the Secretary of State) can also direct an inquiry to be held.

*This adaptation is a consequence of there being only one rather than two bodies involved, and is intended to allow the new Executive to remain impartial when it comes to these matters.*

New Schedule 2 paragraph 9 (replacing current section 11(4) full-out words): Schedule 2 paragraph 9, provides that the new Executive will not be permitted to authorise its Chair or other members to exercise its powers make decisions concerning the enforcement of the relevant statutory provisions in a particular case, and is required to so authorise its members of staff to do so.

*This adaptation is needed to help ensure that -as now - enforcement decisions in particular cases, including prosecutions, will continue to be taken by duly authorised officials. Currently, the Commission is prevented by section 11(4) of the HSW Act from giving directions to the Executive in relation to the enforcement of the relevant statutory provisions in a particular case. It is not possible to replicate this provision where there is no longer a dual structure, of Commission and Executive.*

New Schedule 2 paragraph 9(4)

As required by section 4 of the Legislative and Regulatory Reform Act 2006, the Executive's power to authorise the exercise of its functions by others does not include a power to authorise any person to legislate.

New sections 11(2)(c)(ii) and 18(4A) and (4B);

The Order modifies the way in which the Executive and local authorities should exercise their functions under sections 11 and 18 in three ways:

- First, section 11(2)(c)(ii) includes local authorities in the list of those in relation to whom the Executive is required to make arrangements to secure that they are provided with an information and advisory service.
- Second, new section 18 (4A) provides that the Executive must consult local authorities before issuing guidance to them under section 18(5), and
- Third, section 18(4B) imposes requirements on both the executive and local authorities to work together and cooperate in relation to the exercise of their functions as enforcing authorities.

*Under HSWA, both local authorities and the Executive may be "enforcing authorities" responsible for enforcing health and safety requirements. The Order will transfer to the new Executive the Commission's function of providing guidance to local authorities as to local authorities' performance of their enforcement duties. These three requirements are designed to reflect the change in the relationship between the Executive and the local authorities.*

Schedule 2 also reflects the changes to the size and composition of the new Executive, as compared with the Commission, mentioned in paragraph 8 of your letter. Additionally-

The Executive's power to determine its rules and procedures for dealing with conflict of interest is subject to the consent of the Secretary of State.

Schedule 2 provides for the executive to appoint a Chief Executive, whose role is set out in paragraph 10 of the Schedule and described in part E of the explanatory document.

There are also a number of purely consequential changes, for example the Executive's power to direct investigations and inquiries under new section 14 of HSWA, which is in substance the same as the Commission's power under current section 14, but has been adapted to reflect the fact that there will be only one statutory body involved.

## Appendix C

### **E-mail from the Inquiry Manager of the Committee to the Department for Work and Pensions**

Thank you for your response. I should like to review some parts more fully, but after an initial review I have a question in relation to item 1.

Please could you indicate the bodies in consultation with whom the current commissioners were appointed. I believe that the Committee might as a matter of general interest wish to know the background to the current HSC composition. A brief indication of the origin of each appointment would therefore be helpful.

*13 February 2008*

## Appendix D

### **E-mail from the Department for Work and Pensions to the Inquiry Manager of the Committee**

I refer to your letter emails dated 13 February regarding the above. In answer to your queries:

1. Legal query - The provision referred to is section 14(5) of the Health and Safety at Work etc Act 1974. Section 14 enables the Commission to direct persons to conduct investigations and inquiries, and to make reports on them to the Commission, and subsection (5) enables the Commission to cause such a report, "or so much of it as the Commission thinks it, to be made public at such time and in such manner as the Commission thinks fit." The draft Order would replace this subsection with a new section 14(5) which has the equivalent effect but confers the power on the Executive.

2. Commissioners – As I mentioned in my letter dated 12 February all HSC Commissioners are appointed through open competition in accordance with guidelines set down by the Office of the Commissioner of Public Appointments. A wide range of bodies are informed of vacancies when they arise. The type of organisation consulted at shortlist stage depends on the appointment. Listed below are the current Commissioners, who they represent, who was consulted on the shortlist and current employment:

- John Spanswick – represents larger employers, during his appointment the CBI, EEF- the manufacturers' organisation, the Construction Confederation and the Chemical Industry Association were consulted. John is Chairman of Bovis Lend Lease.
- John Longworth – represents larger employers, during his appointment the CBI was consulted. His current employment is Group Company Secretary of Asda Wal-Mart.
- Judith Donovan – represents small employers, during her appointment the CBI and the Federation for Small Businesses were consulted. Judith is self employed.
- Hugh Robertson – represents employees, during his appointment various trade unions were consulted. Hugh is employed as a policy officer by the TUC.
- Liz Snape – represents employees, during her appointment various trade unions were consulted. Liz is Head of Policy at Unison.
- Danny Carrigan – represents employees, during his appointment various trade unions were consulted. Danny is retired; he was previously Assistant General Secretary of Amicus. He was recently elected Councillor of North Lanarkshire Council.
- Sandy Blair – represents local authorities, during his appointment the Local Government Association and the Local Authorities Co-ordinators of Regulatory Services were consulted. Sandy is now retired but he was Chief Executive of Newport Unitary Authority.

- Dr Sayeed Khan – represents professional interests, during his appointment the Institute of Occupational Safety and Health, Rospa and the Faculty of Occupational Medicine were consulted. Sayeed is the Chief Medical Adviser of EEF, the manufacturers’ organisation.
- Robin Dahlberg – represents the wider public interest. No consultation took place other than taking up his references. Robin is Vice Chair of the Security Industry Authority, a Lay Member on the Advisory Panel on Standards for the Planning Inspectorate and a Board member of the Local Better Regulation Office.

The Legislative Reform Order proposes a governing board consisting of a Chair and up to eleven other members, this is an increase in two from the current arrangements. This increase is to allow flexibility to bring in skills (eg financial and performance management) which may be weak or lacking on the Board.

I think it might be useful to briefly touch upon why a model of wholly “non executives” was chosen. In short this was considered to have an advantage in providing a clear separation between governing and executive functions as well as providing clear lines of accountability. The closer relationship between executive and non-executive with a “mixed” model was felt could result in reluctance on the part of non-executive members to provide the robust scrutiny of performance. Local Authorities felt strongly that a “mixed” Board provides an unequal relationship with HSE as it would be unhelpful to have a “mixed” board overseeing Local Authorities health and safety activity.

On balance the “non-executive” model was considered to deliver the best fit for a merger and is ultimately achievable. The model works successful elsewhere in the public sector, the Food Standards Agency and Environment Agency being two examples.

If you have any further queries do not hesitate to contact me.

*14 February 2008*

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